



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 21, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair Sacks followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: McKillop, Bogue, Thnay, Peixoto, and Zermeño
CHAIRPERSON: Sacks
Absent: COMMISSIONERS: None (One Vacancy)

Staff Members Present: Anderly, Camire, Conneely, Koonze, Pearson, Macias

General Public Present: Approximately 15

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. **Text Amendment Application No. PL-2004 – 0331 - Dharam Salwan (Applicant) -**
Request to Amend the Central City-Commercial Subdistrict Administrative Uses Within the Zoning Ordinance to Permit Animal Hospitals.

Staff report submitted by Associate Planner Camire, dated October 21, 2004, was filed.

Associate Planner Camire presented the staff report. It has been determined by staff that an animal hospital in the downtown area among other reasons, did not encourage pedestrian-oriented activity; rather it would generate vehicle trips with patrons driving to the facility. There are other zoning districts in the city where animal hospitals can better serve residential areas. She responded to questions from Commissioners.

Chair Sacks opened the public hearing at 7:37 p.m.

It was noted that neither the applicant nor a representative was present at this meeting.

Paige Bennett, volunteer for Fairmont and Hayward animal shelters, spoke in support of the text amendment. She noted that there are no animal hospitals in the proposed area and people who do not have cars and who own pets can not travel on public transportation with their animals; therefore they can not get the services they need to maintain healthy pets. She stated there are 7 animal hospitals in Hayward and 14 in Castro Valley, and pet owners in this Hayward area go to Castro

Valley because it is more convenient. Potential city revenues are being lost to other areas. If Mission Boulevard is widened, most of the animal hospitals in Hayward would be lost. She urged support for the text amendment.

In response to Chair Sacks' inquiry if Ms. Bennett knew of any other city that allows animal hospitals in the central city commercial area, Ms. Bennett stated that there is one in a shopping center in Union City, which is located about 3 blocks from their city hall.

Chair Sacks closed the public hearing at 7:42 p.m.

Commissioner Bogue stated that it was not appropriate to have this use in this area. The Commission recently approved an animal hospital on Foothill. He moved, seconded by Commissioner Zermeño, per staff recommendation to deny the text amendment.

Commissioners Thnay and McKillop stated they concurred with Commissioner Bogue and would support the motion.

Commissioner Bogue moved, seconded by Commissioner Zermeño, and unanimously carried, that the Planning Commission finds that the text amendment is statutorily exempt from the California Environmental Quality Act (CEQA) guidelines; and denies the proposed text amendment, subject to the staff report.

2. **Site Plan Review Application No. PL-2004-0489** – Installation of SolarPort at Southland Mall – Tom Young for Swearingen Systems Inc. (Applicant) / Southland Mall LLP (Owner) - The Project is Located on La Playa Drive Opposite Calaroga Avenue

Staff report submitted by Principal Planner Patenaude, dated October 21, 2004, was filed.

Due to the proximity of his residence to the proposed project Commissioner Bogue recused himself regarding the matter and he left the room.

Associate Planner Pearson presented the staff report. He responded to questions from Commissioners.

Chair Sacks opened the public hearing at 7:51 p.m.

Tom Young, the applicant, thanked staff for their work over the last several months. He highlighted some of the details of the project and stated that there have been discussions with mall staff who have expressed concern about the three-foot height of the proposed shrubbery, as someone hiding in the shrubbery would not be easily seen. He asked that the Commission consider a lower height requirement. He further asked that the call boxes be eliminated as there will be camera surveillance, which is sufficient for this area as shoppers do not usually park in this section due to the proximity of the stores. He responded to questions from the Commissioners.



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Commissioner McKillop stated that she agreed that the call boxes might be unnecessary as that part of the parking lot is usually empty, except for holiday shopping. She felt that the shrubbery height at 3 feet at maturity was too high for security reasons.

Commissioner Zermeño commented that he has been trying to get Chabot College to install a solar system and that he thought this was a wonderful idea. In response to his question regarding the location of the system in the parking lot instead of the roof of the building, Mr. Young noted that the roof had been their first choice. However, due to the age of the roof and possible earthquakes, the engineers said it could not be done.

Deanna Bogue lives across the street from the mall. She commented that the height of the shrubs was too high, especially at the driveway entrances/exits. She stated that the Southgate Homeowners board met with the applicant and the applicant agreed to provide: 2-foot candles of light instead of the required 1-foot, camera surveillance, and call-boxes, and noted that the association would accept more but not less than what they were promised.

Chair Sacks closed the public hearing at 8:06 p.m.

Associate Planner Pearson provided additional clarification for Commissioners regarding landscaping and lighting requirements, and stated that the concerns of the homeowners association had been addressed.

Planning Manager Anderly noted that the City's requirement for lighting is 1-foot candle, and the applicant is providing 2. There is some concern that 2-foot would cause glare.

Commissioner Thnay asked for information regarding the call boxes and if the Police Department had reviewed the plans. He asked that police information be provided if there was concern regarding not having call boxes.

Chair Sacks inquired about the call boxes in the City's municipal lot across the street from City Hall and the rationale for that installation. She commented that security cameras are good but may not be watched 24 hours a day.

Commissioner McKillop moved, seconded by Commissioner Zermeño, and unanimously carried, that the Planning Commission finds that the project is Categorically Exempt from CEQA pursuant to Section 15332 of the Guidelines, *In-Fill Development Project*, and approves the Site Plan Review application subject to the attached findings and conditions of approval. Condition number 6 regarding the call boxes is to be deleted and landscaping requirements regarding shrubbery to be changed to 1 foot at maturity instead of 3 feet.

The motion **carried** by the following vote:

AYES:	COMMISSIONERS McKillop, Thnay, Peixoto, Zermefio CHAIRPERSON Sacks
NOES:	None
ABSENT:	None (One Vacancy)
ABSTAIN:	Bogue

3. Planning Director's Referral of Modification of Use Permit No. PL-2003-0373 – Christian Vigilance Church (Owner) - For an Existing Church – The Project is Located at 28767 Ruus Road

Staff report submitted by Associate Planner Pearson, dated October 7, 2004, was filed.

Associate Planner Pearson presented the staff report. He responded to questions from Commissioners. He noted that the City received numerous complaints in 2002 and 2003 and the matter was presented to the Planning Commission a year ago to add conditions regarding the operation of church including physical improvements to the property. Initially, the complaints subsided, but only for a short time, and none of the improvements have been completed. The parking lot plans which were required by May were submitted yesterday. There are structures in the side yard that need to be removed. The church was to operate with the windows and doors closed, and air conditioning was to be added. Some work has been done, including installation of the double-pained windows. The condition regarding hours of operation has continued to be violated, and the church has continued to leave the doors and windows open. Of the 33 conditions, 18 have been violated. Staff is recommending that the Planning Commission revoke the use permit and that the church stop operation.

Chair Sacks opened the public hearing at 8:29 p.m.

Maria Cornejo spoke on behalf of the church. She stated that they had previously agreed to comply with all of the conditions, but then found it difficult to do. She stated that they did not have enough time and money to do all of the things that were required. She noted that they had submitted the parking lot plans as previously reported, and everything else will be submitted on next week. She said that they have spoken to the members and were trying to keep the children under control.

Commissioner McKillop stated she found it difficult to understand how the church had not minimally complied with the items that did not require time or money. She noted that it was unfair to the neighbors to continue to ask them to wait an additional amount of time for the church to try to operate within the hours given and restrain the children.

Commissioner Peixoto said he was sympathetic with the issues the church had to deal with, but there were other conditions that were not complied with that would not cost anything.



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Commissioner Zermeño asked Ms. Cornejo if she understood why the neighbors were mad. He asked her if they were willing to develop some kind of plan for child care during services.

Ms. Cornejo said they do understand and have been working on keeping the hours of operation to the conditioned time, and that she was willing to work on the child care issue.

Andrew LaFleur stated that he has been in contact with Mr. Pearson during the last 2 to 3 years, and there have been no changes or efforts to comply with the conditions of operation. He has tried to meet with the church staff and they have been defiant in response. He discussed maintenance issues, children playing at all hours, loud music, and peculiar activities in the church, when they turn off all the lights and send the children outside unsupervised.

Commissioner Zermeño asked Mr. LeFleur if the church was able to meet all of the conditions and construct the stucco fence, would it resolve the majority of the problems. Mr. LeFleur responded that normally, yes, but that he did not feel that the church members understood how to comply.

Mrs. Helen Madrid stated she lives in the house situated to the right of the church. She has tried to deal with the church members and they have been very rude. When they were reminded about the conditions of closing doors and windows and no speakers and drums, the church members told her to close her windows. She stated that the church might also be operating a day care center as during the summer children were present all day.

Javier Garcia, church member, stated that they no longer go to the church at 5 a.m., and they are working on the problems.

Chair Sacks closed the public hearing at 8:47 p.m.

Commissioner Bogue said that there were things that did not cost any money that should have been taken care, i.e., leaving on time, no drums, cleaning up. However, there has been a total disregard for the conditions and the neighbors, and therefore he could not find a reason to extend the time limit, and he found no hope in this situation. He moved, seconded by Commissioner McKillop, that the Planning Commission finds the project categorically exempt from CEQA review and revokes the Use Permit.

Commissioner Zermeño stated that he was sympathetic with the church and believed they should get more time. He noted that they have submitted plans for the parking area, were working on the windows, and are making efforts to follow through. He said he would not support the motion.

Commissioner Thnay agreed with the most of the Commissioners' sentiments, and stated he was very disappointed that the items that did not cost anything to do had not been complied with. However, he felt that there was a lot required and 12 months is not enough time to accomplish everything. He suggested that the church members make an effort to get along with the neighbors

and that the time to fulfill the other conditions be extended a few more months. He added that he would not support the motion.

Commissioner Peixoto said that it appeared that it was not economic issues holding the church back from fulfilling the conditions. A sound wall is not going to resolve the problems. It is a behavior issue, out and out non-compliance. He had personally visited the neighborhood and noted that the neighbors obviously took pride in their homes; their properties are well taken care of, and he understood their frustration. He said that nothing the applicant had said assured that the changes would be made as there was not one iota of effort on the part of the applicant. He, therefore, would support the motion.

Commissioner McKillop stated that the church members have been disrespectful of their neighbors and that the applicant has not presented any assurance that the situation would improve. She stated she would support the motion.

Chair Sacks pointed out the police reports that were attached and the repetitive complaints. She referred to the minutes of the previous hearing and said it was made clear last time that if the conditions were not complied with that their permit would be revoked. She added she was appalled and disappointed with the lack of effort to comply with the conditions. She stated she would support the motion.

Commissioner Zermeño stated that he did hear assurance from the applicant as Ms. Cornejo agreed to come up with a child care program and that they are no longer going to open at 5 a.m.

Commissioner Thnay added that the drawings took a while because the applicant did not understand the process. However, they have been submitted.

Planning Manager Anderly stated that there have been a few situations where a business has been given additional time to clean up. This would be a first as revocation is rare and only recommended after much effort has been made to get the applicant to comply.

Commissioner Zermeño cited the dog kennel case where the Commission extended the time for 3 months. He asked that the applicant be given at least one month to show they could be good neighbors.

Commissioner Bogue said that the applicant had plenty of time to show an effort and there has been none. The conditions were laid out, there has been continuous monitoring, and nothing has been done in the past 2 years.

Commissioner McKillop said that the neighbor has been patient, waiting for years, and she was not willing to have them wait several more months.

Commissioner Bogue moved, seconded by Commissioner McKillop, and unanimously carried, that the Planning Commission finds the project categorically exempt from CEQA review and revokes the Use Permit.



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The motion **carried** by the following vote:

AYES: COMMISSIONERS McKillop, Bogue, Peixoto
CHAIRPERSON Sacks
NOES: Thnay, Zermefio
ABSENT: None (One Vacancy)
ABSTAIN: None

Chair Sacks announced that there was a 10 day appeal period.

4. **Use Permit No. PL-2004-0240 – Steve Tangney (Applicant) / Shurgard Storage Centers (Owner) – Request to Demolish Two Single-Story Self-Storage Buildings and a Manager's Office and Replace Them With a New Three-Story Building and a Two-Story Manager's Office with Decorative Tower - The Project is Located at 2525 Whipple Road at Interstate 880**

Staff report submitted by Assistant Planner Koonze, dated October 21, 2004, was filed.

Assistant Planner Koonze presented the staff report. He responded to questions from Commissioners. He noted that there is a portion of the property that is owned by Union City and their approval is necessary for anything done on that property. Because of that, staff also requested that the commission modify condition number 6 to state, "The applicant shall obtain the consent of Union City prior to landscaping the parcel owned by Union City."

Chair Sacks opened the public hearing at 9:16 p.m.

Steve Tangney, the applicant highlighted the project and noted that the new buildings will be state of the art. They have worked with Union City and were given a list of requests and have completed them. He responded to questions from Commissioners and clarified the locations of elevators to access the upper stories, the design for weight distribution loads, and the process and costs for relocation of existing tenants.

Chair Sacks closed the public hearing at 9:22 p.m.

Commissioner Thnay asked that consideration be given to rounding out the driveway to slow traffic. Commissioner Thnay moved, seconded by Commissioner Zermefio, and unanimously carried, that the Planning Commission finds that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines Section 15332, *Infill Development Project*, and approves the use permit application subject to the attached finding and conditions of approval. The applicant shall obtain the consent of Union City prior to landscaping the parcel owned by Union City.

ADDITIONAL MATTERS

5. Oral Reports on Planning and Zoning Matters

Planning Manager Anderly stated that there will be meetings on the first and third Thursdays in November. She added that a planning forum is scheduled to be held in Redwood City. Finally, she noted that a new commissioner has been selected and will be starting at the next meeting.

6. Commissioners' Announcements, Referrals

Commissioner Zermeño stated that Tacos Uruapan was finally opened and he recommended a visit. He stated that he almost had a car accident on Industrial across from 880 Truck Repair, coming out of his mechanic's yard. Two huge semi trucks were parked on either side of driveway and it is impossible to see traffic coming in either direction. The truckers also leave a lot of garbage.

Commissioner Bogue also noted that trucks seem to park where ever they want, and suggested that the Commission look at the matter some time in the future.

Commissioner Sacks recommended reading an article which had appeared in the Daily Review regarding the new Seattle public library. She noted she had visited the model units of Studio Walk and although she was disappointed that there were no roof gardens, she had been impressed with the models. On a final note, she stated that she received a notice regarding the Modified 238 route and announced that Council will hold a public meeting October 26 regarding the matter.

APPROVAL OF MINUTES

Minutes of October 7, 2004 – Approved.

ADJOURNMENT

The meeting was adjourned by Chair Sacks at 9:34 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Connie G. Macias
Deputy City Clerk